

*Subtitle 1. Definitions; General Provisions.***§10-101. Definitions.**

(a) *In general.* — In this title the following words have the meanings indicated.

(b) *ACOTE.* — “ACOTE” means the Accreditation Council for Occupational Therapy Education.

(c) *Aide.* — “Aide” means any individual who:

(1) Is not licensed by the Board to perform occupational therapy or limited occupational therapy; and

(2) Provides supportive services to the occupational therapist or occupational therapy assistant under direct supervision.

(d) *Board.* — “Board” means the State Board of Occupational Therapy Practice.

(e) *Direct supervision.* — “Direct supervision” means supervision provided on a face-to-face basis by a supervising therapist when delegated client-related tasks are performed.

(f) *License.* — “License” means, unless the context requires otherwise, a license issued by the Board to practice:

(1) Occupational therapy; or

(2) Limited occupational therapy.

(g) *Licensed occupational therapist.* — “Licensed occupational therapist” means, unless the context requires otherwise, an occupational therapist who is licensed by the Board to practice occupational therapy.

(h) *Licensed occupational therapy assistant.* — “Licensed occupational therapy assistant” means, unless the context requires otherwise, an occupational therapy assistant who is licensed by the Board to practice limited occupational therapy.

(i) *Limited occupational therapy.* — (1) “Limited occupational therapy” means participation, while under the periodic supervision of a licensed occupational therapist, in:

(i) An initial screening and evaluation that applies the principles and procedures of occupational therapy; and

(ii) A treatment program that applies the principles and procedures of occupational therapy.

(2) “Limited occupational therapy” does not include:

(i) Initiation and interpretation of evaluation data; and

(ii) Initiation of a treatment program before the client has been evaluated and a licensed occupational therapist has rendered a treatment plan.

(j) *NBCOT*. — “NBCOT” means the National Board for Certification in Occupational Therapy.

(k) *Occupational therapist*. — “Occupational therapist” means an individual who practices occupational therapy.

(l) *Occupational therapy*. — “Occupational therapy” means the therapeutic use of purposeful and meaningful goal-directed activities to evaluate, consult, and treat individuals that:

(1) Have a disease or disorder, impairment, activity limitation, or participation restriction that interferes with their ability to function independently in daily life roles; or

(2) Benefit from the prevention of impairments and activity limitations.

(m) *Occupational therapy assistant*. — “Occupational therapy assistant” means an individual who practices limited occupational therapy.

(n) *Occupational therapy practice; limited occupational therapy practice*. — “Occupational therapy practice” or “limited occupational therapy practice” means to carry out a treatment program that applies the principles and procedures of occupational therapy.

(o) *Occupational therapy principles*. — “Occupational therapy principles” include:

(1) The use of therapeutic activities that promote independence in daily life roles;

(2) Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes;

(3) In order to enhance performance, the adaption of task, process, or the environment, or the teaching of compensatory techniques;

(4) Methods and techniques for preventing disability that facilitate the development or safe application of performance skills;

(5) Health promotion strategies and practices that enhance performance abilities; and

(6) Education, instruction, and research in the practice of occupational therapy.

(p) *Occupational therapy procedures*. — (1) “Occupational therapy procedures” include:

(i) Developing, improving, sustaining, or restoring skills in activities of daily living, work, or productive activities, including:

1. Instrumental activities of daily activity; and

2. Play and leisure activities;

(ii) Developing, remediating, or restoring sensorimotor, perceptual, cognitive, or psychological components of performance;

(iii) Designing, fabricating, applying, or training in the use of assistive technology, splinting, or orthotic devices, including training in the use of prosthetic devices;

(iv) Adapting environments and processes, including the application of ergonomic principles to enhance performance and safety in daily life roles;

(v) Applying physical agent modalities as adjuncts to or in preparation for purposeful activity with appropriate training, as specified by the Board in regulations;

(vi) Promoting safe, functional mobility in daily life tasks;

(vii) Providing intervention in collaboration with the client, the client's family, the client's caregiver, or others;

(viii) Educating the client, the client's family, the client's caregiver, or others in carrying out appropriate nonskilled interventions; and

(ix) Consulting with groups, programs, organizations, and communities to provide population-based services.

(2) "Occupational therapy procedures" do not include the adjustment or manipulation of any of the osseous structures of the body or spine.

(q) *On-site supervision*. — "On-site supervision" means supervision in which a supervisor is immediately available on a face-to-face basis when client procedures are performed or as otherwise necessary.

(r) *Periodic supervision*. — (1) "Periodic supervision" means supervision by a licensed occupational therapist on a face-to-face basis, occurring the earlier of at least:

(i) Once every 10 therapy visits; or

(ii) Once every 30 calendar days.

(2) "Periodic supervision" includes:

(i) Chart review; and

(ii) Meetings to discuss client treatment plans, client response, or observation of treatment.

(s) *Supervision*. — "Supervision" means aid, direction, and instruction provided by an occupational therapist to adequately ensure the safety and welfare of clients during the course of occupational therapy.

(t) *Temporary license*. — "Temporary license" means a license issued by the Board under and as limited by §10-313 of this title to practice:

(1) Occupational therapy; or

(2) Limited occupational therapy.

§10-102. Scope of title.

This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

*Subtitle 2. State Board of Occupational Therapy Practice.***§10-201. Board established.**

There is a State Board of Occupational Therapy Practice in the Department.

§10-202. Board membership.

(a) *Composition; appointment of members.* — (1) The Board consists of seven members.

(2) Of the seven Board members:

- (i) Four shall be licensed occupational therapists;
- (ii) One shall be a licensed occupational therapy assistant; and
- (iii) Two shall be consumer members.

(3) The Governor shall appoint the occupational therapist members and the occupational therapy assistant member, with the advice of the Secretary, from a list of names submitted to the Secretary and the Governor by the Maryland Occupational Therapy Association.

(4) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(b) *Qualifications of occupational therapist members and occupational therapy assistant member.* — Each member who is an occupational therapist or an occupational therapy assistant shall:

(1) Be a resident of this State at the time of nomination and appointment and for the duration of the term of the member; and

(2) For at least 3 of the 5 years immediately before appointment have been engaged in:

- (i) Practicing occupational therapy or limited occupational therapy;
- (ii) Teaching occupational therapy; or
- (iii) Performing research in occupational therapy.

(c) *Qualifications of consumer member — In general.* — Each consumer member of the Board:

(1) Shall be a member of the general public;

(2) May not be or ever have been an occupational therapist or occupational therapy assistant or in training to become an occupational therapist or occupational therapy assistant;

(3) May not have a household member who is an occupational therapist or occupational therapy assistant or in training to become an occupational therapist or occupational therapy assistant;

(4) May not participate or ever have participated in a commercial or professional field related to occupational therapy;

(5) May not have a household member who participates in a commercial or professional field related to occupational therapy; and

(6) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board.

(d) *Same — Restriction.* — While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

(e) *Oath.* — Before taking office, each appointee to the Board shall take the oath required by Article I, §9 of the State Constitution.

(f) *Tenure; vacancies.* — (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1994.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member may not serve more than two consecutive full terms.

(6) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(g) *Removal.* — (1) The Governor may remove a member for incompetence or misconduct.

(2) Upon the recommendation of the Secretary, the Governor may remove a member whom the Secretary finds to have been absent from two successive Board meetings without adequate reason.

§10-203. Chairpersons.

(a) *In general.* — From among its members, the Board shall annually elect one or more chairpersons.

(b) *Elections; terms; duties.* — The Board shall determine:

(1) The manner of election of the chairpersons;

(2) The term of office of the chairpersons; and

(3) The duties of the chairpersons.

§10-204. Quorum; meetings; compensation; Executive Director; staff.

(a) *Quorum.* — A majority of the full authorized membership of the Board is a quorum.

(b) *Meetings.* — The Board shall meet at least once every 2 months, at the times and places that it determines.

(c) *Compensation and reimbursement for expenses.* — Each member of the Board is entitled to:

(1) Compensation in accordance with the budget of the Board; and

(2) Reimbursement for expenses at a rate determined by the Board.

(d) *Executive Director; staff.* — (1) The Board shall appoint an Executive Director of the Board that serves at the pleasure of the Board as its executive officer.

(2) In accordance with the budget of the Board, the Board may employ:

(i) A staff; and

(ii) Any experts and consultants necessary to obtain information and advice that relate to occupational therapy.

§10-205. Miscellaneous powers and duties.

(a) *Powers.* — In addition to the powers set forth elsewhere in this title, the Board may adopt:

(1) Rules and regulations to carry out the provisions of this title;

(2) A code of ethics for licensees; and

(3) In consultation with the State Board of Physical Therapy Examiners and the Board of Chiropractic Examiners, regulations that recognize occupational therapists and occupational therapy assistants who have acquired advanced practice skills.

(b) *Duties.* — In addition to the duties set forth elsewhere in this title, the Board shall keep:

(1) Records and minutes necessary for the orderly conduct of business; and

(2) A list of each currently licensed occupational therapist and occupational therapy assistant.

§10-206. State Board of Occupational Therapy Practice Fund — Establishment of fees; disposition of funds.

(a) *State Board of Occupational Therapy Practice Fund established.* — There is a State Board of Occupational Therapy Practice Fund.

(b) *Establishment of fees.* — (1) The Board may set reasonable fees for the issuance and renewal of licenses and its other services.

(2) The fees charged shall be set so as to approximate the cost of maintaining the Board.

(3) Funds to cover the compensation and expenses of the Board members shall be generated by fees set under this section.

(c) *Disposition of funds.* — (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Occupational Therapy Practice Fund.

(d) *Fund — Uses; nature; reversion; funding.* — (1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this article.

(2) The Fund is a continuing nonlapsing fund, not subject to §7-302 of the State Finance and Procurement Article.

(3) Any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this article.

(4) No other State money may be used to support the Fund.

(e) *Same — Administration; expenditures.* — (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

(f) *Same — Audits.* — The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in §2-1220 of the State Government Article.

§10-207. Good faith exemption from civil liability.

A person shall have the immunity from liability described under §5-711 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

Subtitle 3. Licensing.

§10-301. License required; exceptions.

(a) *In general.* — Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice occupational therapy or limited occupational therapy in this State.

(b) *Exceptions.* — This section does not apply to:

(1) An individual employed by the federal government as an occupational therapist or an occupational therapy assistant, while practicing within the scope of that employment;

(2) A student or trainee who is designated as a student or trainee, while:

(i) Fulfilling a field work requirement under §10-302 of this subtitle; or

(ii) Pursuing a supervised course of study in an accredited or approved educational program leading to a degree or certificate in:

1. Occupational therapy; or
2. Occupational therapy assistant;

(3) Subject to the regulations adopted by the Board, an aide who supports the practice of occupational therapy or the practice of limited occupational therapy, if the aide:

(i) Works only under the direct supervision of a licensed occupational therapist or occupational therapy assistant and subject to the occupational therapist's responsibility for supervision, as provided by this subtitle; and

(ii) Performs only support activities that do not require training in the basic anatomical, biological, psychological, and social sciences used in the practice of occupational therapy;

(4) An occupational therapist who is authorized to practice occupational therapy in any other jurisdiction, if the occupational therapist practices occupational therapy in this State for the purpose of educating, consulting, and training, for the duration of the purpose, as preapproved by the Board; or

(5) An occupational therapy assistant who is authorized to practice limited occupational therapy in any other jurisdiction, if the occupational therapy assistant practices limited occupational therapy in this State for the purpose of educating, consulting, and training, for the duration of the purpose, as preapproved by the Board.

§10-302. Qualifications of applicants.

(a) *In general.* — To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) *Moral character.* — The applicant shall be of good moral character.

(c) *Age.* — The applicant shall be at least 18 years old.

(d) *Education and experience. — Occupational therapist license.* — An applicant for an occupational therapist license shall have successfully:

(1) Graduated from an educational program in occupational therapy that is recognized by the Board and accredited by ACOTE or any other nationally recognized programmatic accrediting agency; and

(2) Completed the equivalent of at least 6 months of supervised, full-time field work experience at a recognized educational institution

or in a training program approved by the educational institution where the applicant met the academic requirements.

(e) *Same. — Occupational therapy assistant license.* — An applicant for an occupational therapy assistant license shall have successfully:

(1) Graduated from an educational program for occupational therapy assistants that is recognized by the Board and accredited by ACOTE or any other nationally recognized programmatic accrediting agency; and

(2) Completed the equivalent of at least 4 months of supervised, full-time field work experience at a recognized educational institution or in a training program approved by the educational institution where the applicant met the academic requirements.

(f) *Examination.* — The applicant shall pass the appropriate examination given by NBCOT or any other national credentialing organization.

§10-303. Waiver of education and experience requirements.

(a) *Occupational therapist license.* — (1) The Board shall waive the education and experience requirements of §10-302(d) of this subtitle for an applicant for an occupational therapist license:

(i) Who applied for a license before July 1, 1979;

(ii) Whose principal residence is in this State;

(iii) Who presents to the Board satisfactory evidence that the applicant practiced occupational therapy in this State for at least 2 years before July 1, 1979; and

(iv) Who has a baccalaureate degree in a health science from an accredited college or university.

(2) Except for an applicant who was licensed as an occupational therapy assistant under subsection (b) of this section, the Board shall waive the education requirements of §10-302(d) of this subtitle for an applicant for an occupational therapist license who has:

(i) Practiced limited occupational therapy for at least 4 years either as a licensed occupational therapy assistant or as an occupational therapy assistant certified by the American Occupational Therapy Association; and

(ii) Had at least 6 months full-time supervised field work experience.

(b) *Occupational therapy assistant license.* — The Board shall waive the requirements of §10-302(e) of this subtitle for an applicant for an occupational therapy assistant license:

(1) Who applied for a license before July 1, 1979;

(2) Whose principal residence is in this State;

(3) Who presents to the Board satisfactory evidence that the applicant has practiced limited occupational therapy in this State for at least 2 years before July 1, 1979; and

(4) Who has a high school diploma or has completed successfully a high school equivalency examination or program.

§10-304. Applications for licenses.

(a) *In general.* — To apply for a license, an applicant shall:

(1) Submit an application to the Board in the form required by the Board and

(2) Pay to the Board the application fee set by the Board.

(b) *Deadline for application if examination required.* — If an applicant is required under this title to take an examination, the applicant shall submit the application and fee at least 30 days before the date of the examination that the applicant is required to take.

§10-305. Examinations.

(a) *Right to examination.* — An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) *Time and place of examination.* — The Board shall give examinations at least twice a year, at the times and places that the Board determines, to applicants for:

(1) An occupational therapist license; and

(2) An occupational therapy assistant license.

(c) *Notice of examination.* — The Board shall notify each qualified applicant of the time and place of examination.

(d) *Subjects and method of examination.* — (1) The Board shall determine the subjects, scope, form, and standards for acceptable performance for examinations given under this subtitle.

(2) The subjects examined shall include:

(i) The basic and clinical sciences that relate to occupational therapy;

(ii) The theory and practice of occupational therapy;

(iii) The professional skills used in the practice of occupational therapy or limited occupational therapy; and

(iv) Judgment in using occupational therapy techniques and methods.

(e) *Rights of applicant.* — In accordance with the rules and regulations of the Board, an applicant may obtain the applicant's score and review the applicant's examination papers.

§10-306. Waiver of examination requirement.

(a) *In general.* — Subject to the provisions of this section, the Board may waive any examination requirement of this subtitle for an applicant who is licensed in any other state to practice:

- (1) Occupational therapy; or
- (2) Limited occupational therapy or its equivalent.

(b) *Conditions.* — The Board may grant a waiver under this section only if the applicant:

- (1) Pays the application fee set by the Board under §10-304 of this subtitle; and
- (2) Provides adequate evidence that the applicant:
 - (i) Meets the qualifications otherwise required by this title; and
 - (ii) Became licensed in the other state after meeting requirements in that or any other state that are at least equivalent to the requirements of this State.

§10-307. Same — Nationally certified applicants.

(a) *Mandatory waiver.* — Subject to the provisions of this subsection, the Board shall waive the appropriate examination requirements of this title for an applicant who:

- (1) Pays the application fee set by the Board under §10-304 of this subtitle; and
- (2)(i) If applying for an occupational therapist license, was certified by the American Occupational Therapy Certification Board as an occupational therapist registered (O.T.R.) at any time before July 1, 1979; or
- (ii) If applying for an occupational therapy assistant license, was certified by the American Occupational Therapy Certification Board as a certified occupational therapy assistant (C.O.T.A.) at any time before July 1, 1979.

(b) *Discretionary waiver.* — The Board may grant a waiver of the appropriate examination requirement of this subtitle to an applicant for an occupational therapist license who, on or after July 1, 1979, is certified by the American Occupational Therapy Certification Board as an occupational therapist registered (O.T.R.), or to an applicant for an occupational therapy assistant license who, on or after July 1, 1979, is certified by the American Occupational Therapy Certification Board as a certified occupational therapy assistant (C.O.T.A.), only if the applicant:

(1) Pays the application fee set by the Board under §10-304 of this subtitle; and

(2) Provides adequate evidence that the applicant became certified after meeting requirements that are at least equivalent to the licensing requirements of this State.

§10-308. Issuance of license.

(a) *In general.* — The Board shall issue the appropriate license to an applicant who meets the requirements of this title for that license.

(b) *Proof of licensing required.* — (1) Licensees shall present an original current license to the employer as part of the employment process.

(2) Except as otherwise provided in this subsection, each licensee shall display the license conspicuously in the office or place of employment of the licensee.

(3) If a licensee is unable to display the license, the licensee shall present the original license to the client at the request of the client or the client's designated decision maker.

§10-309. Scope of occupational therapist license.

An occupational therapist license authorizes the licensee to practice occupational therapy while the license is effective.

§10-310. Scope of occupational therapy assistant license.

(a) *In general.* — Subject to subsection (b) of this section, an occupational therapy assistant license authorizes the licensee to practice limited occupational therapy while the license is effective.

(b) *Supervision required.* — A licensed occupational therapy assistant may practice limited occupational therapy only under the supervision of an occupational therapist who is authorized to practice occupational therapy in this State.

§10-311. Term and renewal of licenses.

(a) *Terms of license.* — A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) *Renewal notice.* — At least 1 month before the license expires, the Board shall send to the licensee, by first-class mail to the last known address of the licensee, a renewal notice that states:

- (1) The date on which the current license expires;
- (2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

- (3) The amount of the renewal fee.

(c) *Application for renewal.* — Except as otherwise provided in this title, before the license expires, the licensee periodically may renew it for an additional term, if the licensee:

- (1) Otherwise is entitled to be licensed;
- (2) Pays to the Board a renewal fee set by the Board; and
- (3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing competency requirements and other qualifications and requirements set under this section for license renewal.

(d) *Continuing competency.* — In addition to any other qualifications and requirements established by the Board, the Board may establish continuing competency requirements as a condition to the renewal of licenses under this section.

(e) *Issuance of renewal.* — The Board shall renew the license of each licensee who meets the requirements of this section.

(f) *Grace period.* — The Board shall renew the license of an occupational therapist or an occupational therapy assistant who has failed to renew the license for any reason if the occupational therapist or occupational therapy assistant:

- (1) Applies for renewal within 30 days after the deadline for renewal;
- (2) Meets the renewal requirements of this section;
- (3) Pays to the Board the renewal fee set by the Board; and
- (4) Pays to the Board the late fee set by the Board.

§10-312. Reinstatement upon failure to renew.

The Board may reinstate the license of an occupational therapist or an occupational therapy assistant who has failed to renew the license for any reason, and who applies for reinstatement more than 30 days after the license renewal deadline, if the occupational therapist or occupational therapy assistant:

- (1) Meets the renewal requirements of §10-311 of this subtitle;
- (2) Pays to the Board the reinstatement fee set by the Board;

- (3) Provides documentation of successfully completing the continuing education requirements established by the Board; and
- (4) Completes any other requirements established by regulation.

§10-313. Temporary licenses.

(a) *Authority to issue.* — The Board may issue a temporary license to an applicant who, except for passing an examination otherwise required under this subtitle, has met the appropriate education and experience requirements of this subtitle for an occupational therapist license or an occupational therapy assistant license under §10-302 of this subtitle.

(b) *Scope.* — (1) A temporary license issued to an occupational therapist authorizes the holder to practice occupational therapy only under the on-site supervision of an occupational therapist who is authorized to practice in this State.

(2) A temporary license issued to an occupational therapy assistant authorizes the holder to practice limited occupational therapy only under the on-site supervision of an occupational therapist or an occupational therapy assistant who is authorized to practice in this State.

(c) *Term.* — A temporary license is valid until:

- (1) Notification of expiration by the Board for the licensee's failure to successfully complete the exam;
- (2) Notification of suspension for the licensee's failure to submit exam results to the Board; or
- (3) Notification of permanent licensure.

(d) *Issuing limitation.* — The Board may not issue more than two temporary licenses to an individual.

§10-314. Surrender of license.

(a) *In general.* — Unless the Board agrees to accept the surrender of a license, a licensed occupational therapist, licensed occupational therapy assistant, or holder of a limited or temporary license may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

(b) *Conditions.* — The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

§10-315. Denials, reprimands, suspensions, and revocations — Grounds.

Subject to the hearing provisions of §10-316 of this subtitle, the Board may deny a license or temporary license to any applicant, reprimand any licensee or holder of a temporary license, place any licensee or holder of a temporary license on probation, or suspend or revoke a license or temporary license if the applicant, licensee, or holder:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or temporary license for the applicant, licensee, or holder or for another;
- (2) Fraudulently or deceptively uses a license or temporary license;
- (3) Commits any act of gross negligence, incompetence, or misconduct in the practice of occupational therapy or limited occupational therapy;
- (4) Knowingly violates any provisions of this title;
- (5) Violates any rule or regulation of the Board, including any code of ethics adopted by the Board;
- (6) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (7) Aids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy;
- (8) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substances defined in Article 27 of the Code, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;
- (10) Willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy;
- (11) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (12) Submits a false statement to collect a fee; or
- (13) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for

which the licensee is licensed and qualified to render because the individual is HIV positive.

§10-316. Same — Hearings.

(a) *Right to hearing.* — Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under §10-315 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(b) *Hearing by committee.* — (1) The Board chairman may delegate the authority to conduct a hearing to a committee consisting of two or more Board members.

(2) The committee shall:

(i) Hold an evidentiary hearing; and

(ii) Prepare a recommended decision for consideration by a quorum of the Board.

(3) The committee shall give notice to the individual of the opportunity to file exceptions and present argument to the Board regarding the recommended decision.

(c) *Application of Administrative Procedure Act.* — The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(d) *Specific notice requirements.* — The hearing notice to be given to the individual shall be sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the last known address of the individual at least 30 days before the hearing.

(e) *Right to counsel.* — The individual may be represented at the hearing by counsel.

(f) *Subpoenas and oaths.* — Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(g) *Contempt of court.* — If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(h) *Ex parte hearing.* — If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§10-317. Administrative and judicial review.

(a) *In general.* — Except as provided in this section for an action under §10-315 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may:

(1) Appeal that decision to the Board of Review; and

(2) Then take any further appeal allowed by the Administrative Procedure Act.

(b) *Action under §10-315.* — (1) Any person aggrieved by a final decision of the Board under §10-315 of this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

§10-317.1. Injunctions.

(a) *Authorized.* — An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of occupational therapy or limited occupational therapy; or

(2) Conduct that is grounds for disciplinary action under §10-315 of this subtitle.

(b) *Standing conferred.* — An action under this section may be brought by:

(1) The Board;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney in the name of the State.

(c) *Venue.* — An action under this section may be brought in the county where:

(1) The defendant resides; or

(2) The defendant engaged in the act sought to be enjoined.

(d) *Damages not required.* — Proof that damage or possible damage will be incurred if an injunction is not granted is not required for an action under this section.

(e) *Not exclusive.* — An action under this section does not preclude a criminal prosecution for the unauthorized practice of occupational therapy under §10-401 of this title or disciplinary action under §10-315 of this subtitle.

§10-318. Reinstatement of revoked license.

On the application of an individual whose license has been revoked, the Board, on the affirmative vote of a majority of its full authorized membership, may reinstate a revoked license.

§10-319. Impaired occupational therapist professionals committees.

(a) *Defined.* — In this section, “impaired occupational therapist professionals committee” means a committee that:

- (1) Is defined in subsection (b) of this section; and
- (2) Performs any of the functions listed in subsection (d) of this section.

(b) *In general.* — For purposes of this section, an impaired occupational therapist professionals committee is a committee of the Board or a committee of the Maryland Occupational Therapy Association that:

- (1) Is recognized by the Board; and
- (2) Includes but is not limited to occupational therapists.

(c) *Scope of authority.* — An impaired occupational therapist professionals committee of the Board or recognized by the Board may function:

- (1) Solely for the Board; or
- (2) Jointly with an impaired professionals committee representing another board or boards.

(d) *Duties.* — For purposes of this section, an impaired occupational therapist professionals committee evaluates and provides assistance to any occupational therapist or occupational therapy assistant in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) *Discoverability and admissibility of proceedings, records and files.* — (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the impaired occupational therapist professionals committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the impaired occupational therapist professionals committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the impaired occupational therapist professionals committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) *Good faith exemption from civil liability.* — A person who acts in good faith and within the scope of jurisdiction of an impaired occupational therapist professionals committee is not civilly liable for any action as a member of the impaired occupational therapist professionals committee or for giving information to, participating in, or contributing to the function of the impaired occupational therapist professionals committee.

Subtitle 4. Prohibited Acts; Penalties.

§10-401. Practicing without license.

(a) *Practicing occupational therapy.* — Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice occupational therapy in this State unless licensed to practice occupational therapy by the Board.

(b) *Practicing limited occupational therapy.* — Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice limited occupational therapy in this State unless licensed to practice limited occupational therapy by the Board.

§10-402. Misrepresentation — Occupational therapist.

(a) *In general.* — Unless authorized to practice occupational therapy under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this State.

(b) *Certain representations prohibited.* — Unless authorized to practice occupational therapy under this title, a person may not use the credentialing abbreviation “O.T.” or any other words, letters, or symbols with the intent to represent that the person practices occupational therapy.

§10-403. Same — Limited occupational therapist.

(a) *In general.* — Unless authorized to practice limited occupational therapy under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice limited occupational therapy in the State.

(b) *Certain representations prohibited.* — Unless authorized to practice limited occupational therapy under this title, a person may not use the credentialing abbreviation “O.T.A.” or any other words, letters, or

symbols with the intent to represent that the person practices limited occupational therapy.

§10-404. Providing occupational therapy.

A person may not provide, attempt to provide, offer to provide, or represent that the person provides occupational therapy unless the occupational therapy is provided by an individual who is authorized to practice occupational therapy or limited occupational therapy under this title.

§10-405, 10-406. Reserved.

§10-407. Penalties.

A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

Subtitle 5. Short Title; Termination of Title.

§10-501. Short title.

This title may be cited as the “Maryland Occupational Therapy Practice Act”.

§10-502. Termination of title.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, 2004.